15 kept in cage

App. F. IX-4

Previous References.

1951-52 (Archy)

File No. 8-51

Serial Nos. 3, 4.

Later References.

p 452 E

GENERAL AND REVENUE SECRETARIAT

Serial Nos. Two

Part B for April

SUBJECT

Measures for Protection of objects of cultural value against probable consequences of Armed Conflict.

To, The Secy to the Govt of India
New Delhi
No. F. 513 / d. 17-4-51

WD 010861—GPB—25,000—18-9-50

Archy

2230

Letter no. D. 2526/51-A2, dated 26.7.51 from Govt. of India, Ministry of Edn., New Delhi requesting to furnish his views of this Govt. re: protection of objects of cultural value against the probable consequences of Armed conflicts.

The remarks of the Director of Archy. will be called for in the first instance.

Draft subm. for approval.

2) Bring up

318

3) Issue

9/8

To.

The Dir. of Archy

No. E. 4447, dated 22.8.1951.

Fds ~~copies~~ of his letter for very early remarks and requests him to return his return with this copy.

Sry A

Arch 4957/E1

protection of objects of cultural value against armed conflicts

Reminder No. D. 2526/51-A2, dated 11.12.1957 from the Under Sy to Govt. of India, Ministry of Education, New Delhi on the matter

4) The remarks called for from the Director of Archaeology has not yet been received. Draft reminder submitted for kind approval

21.12.1957

Sd/- 22.12

To,

The Director of Arch

Reminder No. E. 9761, dated 22.1.1958.

Letter No. 793, dated 5.2.1958 from the Director of Arch, furnishing his remarks on the matter

Arch

5959
E,

protection of objects of cultural value against armed conflicts.

5) The enclosures in original forwarded to the Director of Archaeology with a request to return them along with his reply have not been received. Draft calling for his name from the Director of Arch. is submitted for approval.

KAG
25.2.1952.

J. V. Rao
25.2.

Do.

The Director of Arch

No. E. 11880, dated 5.3.1952.

Requested him to forward the enclosures, etc

Letter No. 892, dated 6.3.1952 from the Director of Archaeology furnishing the replies called for

Arch

6433
G

re protection of objects of
cultural value against armed conflicts

8) The director of Archaeology states that
in the first instance a detailed list
of inseparable works of art including
antiquities paintings rare
manuscripts books, etc. should be
got prepared under his supervision
of an Expert Committee. In the
event of the possibility of
event of a war armed conflict, all
such objects should be removed for
safe deposit to the interior in
selected suitable places far away
from important cities

9) He further states that A.R.P. measures
as undertaken during the last war may
be provided for the protection of some
of the noteworthy Ancient Monuments
of the State.

10) He affirms that of India will

Arch

6433
E

re: protection of objects of cultural value against armed conflicts

be intimated on the above lines. Draft accordingly is submitted for consideration.

KMS
19.3.1952 (Sgd) Sgd
19.3

13664
21/3

PC for US
Sgd
26/3

[Need instructions with person]

13) Draft reply to Govt of India as her instructions is submitted for kind approval.

KMS
8.4.1952

Sgd
8.4.

14) Sgd Seq)

15) Issue & put up

Sgd
8/4

No 2614
Date 9/4

Need on 15/4/1952)

Do.

Sgd
9.4

The Secy. to G.O.I.,
Ministry of Education
New Delhi

No. E.513, dated 17.4.52

Sir,

I am directed to refer to the Ancient & Historical Monuments & Remains

Arch

6433
E

Measures for the protection of objects of cultural value against armed conflicts

(declaration of national importance) Act of 1951 almost all the Ancient and historical Monuments have been taken over by the Centre and that the Question of providing them adequate protection against probable armed conflicts rests with Govt. of India etc.

16) Subject after views with Inform to orders at para 15 supra.

17.4.1952 (Asg seq)

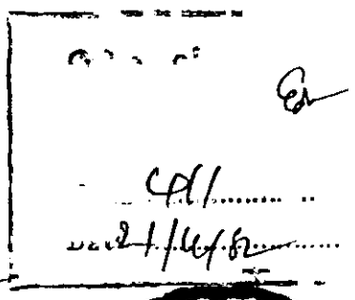
17.4.52

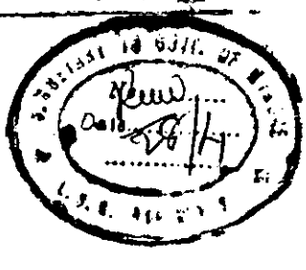
2nd letter to GOI is for perusal after issue

(Min Law & Edn)

20/4

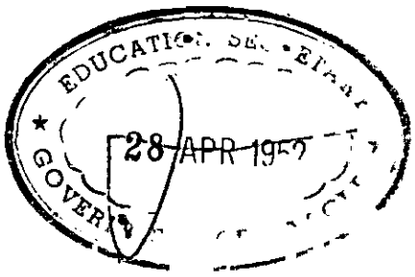
21.4.82





27/4.

28/4



29.4.82

GENERAL ADMINISTRATION DEPT. CONFIDENTIAL BRANCH. 13 DEC 1951

4958/B1
17/11/51

No. D.2526/51-A.2,
Government of India,
Ministry of Education,

New Delhi, the 11th December, 1951.

From

Mrs. Bina Chatterjee M.A., D.Phill.,
Under Secretary to the Government of India.

EDUCATIONAL SECRETARY 15 DEC 1951 GOVERNMENT OF MYSORE

To

The Chief Secretary to the Government of Mysore,
BANGALORE.

Subject: Protection of objects of Cultural Value against the probable consequences of armed conflicts - Measures for.

Sir,

I am directed to refer to this Ministry's letter No. D.2526/51-A.2 dated 26th July, 1951 on the subject mentioned above and subsequent reminder No. 2526/51-A.2, dated 29th September 1951 and to request that the Government of India may kindly be informed of your views in the matter at an early date.

Yours faithfully,

Bina Chatterjee

(Bina Chatterjee)
Under Secretary.

PL/8/12

2230 E1

This paper relates to the Archaeological Section

E1/8

x x x

Special Sri KAS 1/8

Appendix F G—1]

SUBJECT Measures for the protection of objects of cultural value against the probable consequences of armed conflicts

Section

File No.

Serial No.

Diary No. of letter replied to .....

No. E 4447 (with enclosures)

To

General and Revenue Secretariat

( )

the *19*

The Director of Arch
in Mysore
Mysore

Date of issue 22.8.51.

Signed by.....

Sir,

I am directed to forward herewith for very early remarks letter no. D. 2526/51-A2, dated 26.7.1951 together with its enclosures (in original to be returned along with your reply) received from the Under Secy. to Govt. of India, Ministry of Edn.

List of enclosures.....

Copied by.....

Examined by.....

New Delhi

Appendix F. G.—1]

SUBJECT Measures for the protection of objects of cultural value against the possible consequences of armed conflicts.

Section

File No.

Serial No.

Diary No. of letter replied to

No. E 9761

To

The Director of Arts
in Mysore
Mysore

Sir,

I am directed to refer to your reference to this Office letter No. E. 4647, dated 22.8.1951 on the above subject, and to request you to be so good as to furnish your remarks in the matter immediately.

Yours faithfully,

for Secretary to Government

General and Revenue Secretariat

( )

the 19

Date of issue 22.1.52

Signed by

List of enclosures

Copied by

Examined by

WD C6171—GPB—30,000—4-6-49

GOVERNMENT OF MYSORE 5859/E1 9/2/52

No. 793

Encl. one

Department of Archæology,

Mysore, 5th February 1952 195

To

The Secretary to Government of Mysore,
Local Self-Government Department,
BANGALORE.

Subject: Measures for the protection of objects of Cultural Value against the probable consequences of armed conflicts.

With reference to your letter No.E.9761 dated 22-1-1952 on the above subject, I am enclosing herewith a copy of my letter No.120 dated 7th June 1951 furnishing my views on the Unesco scheme of establishing repositories for reproductions of representative works in connection with the preservation of the cultural heritage of man kind. As for the protection of objects of cultural value against the probable consequences of armed conflicts envisaged by the Government of India, I wish to state that the measures undertaken by the Government of Mysore for the protection and preservation of all objects of cultural value kept in museums, libraries and archieves during the last war

will have to be considered. In the first instance a detailed list of irrepairable works of art including antiquities, paintings, etc., rare manuscripts and books will have to be got prepared under the supervision of an expert committee consisting of the marginally noted members.

1. The Director of Archaeology, Mysore.
2. The Superintendent, Oriental Research Institute, Mysore.
3. Librarian of the University Library.
4. Officers in charge of the Museums in the State.

In the event of the probability of an armed conflict, all the objects listed will have to be removed for safe deposit to the interior in selected suitable places far away from important Cities in the State.

A.R.P. Measures as undertaken during the last War may also have to be provided for some of the note worthy ancient monuments of the State, the decision for selection in this matter being left to the Committee proposed.

Yours faithfully,

(K.Narayana Iyengar)
Director of Archaeology I/C. 5/2/42

RKN.

Copy of letter No.126 dated 7th June 1951 from the Director of Archaeology, Mysore, to the Secretary to the Government of Mysore, Local Self-Government Department, Bangalore.

Subject: U.N.E.S.C.O. - Scheme of establishing repositories for reproductions of representative works.

With reference to your letter No.E.1504/E2, dated 22-5-1951 forwarding a copy of letter No.D.276/51-A2. dated 3-5-51 received from the Under Secretary to the Government of India, Ministry of Education, New Delhi, on the above subject, for remarks, I write to state that it is desirable to establish repositories where reproductions of the most representative and valuable works of art can be deposited for purposes of protection and preservation. At present there are over 250 protected ancient monuments in the Mysore State and the Department of Archaeology, Mysore have published detailed descriptions of these monuments in a series of Annual Reports, Monographs and Guide Books that are being issued from time to time ever since the establishment of the Department. As far as possible many of the important views of these monuments as well as the wealth of sculptural material contained therein have been recorded by photography. The Department has in its possession over 4000 photographic negatives which would illustrate the Architecture and Sculpture of Mysore. Apart from the photographic documentation of works of art pen drawings of the ground plan, ceiling, pillars, wall details, etc. of the important protected monuments have also been prepared.

In view of the necessity to have adequate safe-guards for the preservation of the cultural heritage of the country, we may perhaps participate in the Scheme sponsored by the U.N.E.S.C.O. In this connection, I may submit that the establishment of a repository of reproductions of representative works of Indian Art in a suitable place within India may also be considered.

"Copy"

K Narayana Iyengar

(K.Narayana Iyengar)
Director of Archaeology I/C.

RKN.

Appendix F. G.—1]

SUBJECT Measures for protection of objects of cultural value against probable consequences of Armed Conflict.

Section

File No.

Serial No.

No. E.11880.

Diary No. of letter replied to.....

To

The Director of Arch

in Mysore, Mysore

Sir,

With reference to correspondence ending with your letter no. 793, dated 5.2.1952 on the above subject, I am directed to request you to be so good as to return the enclosures received from you, which were forwarded to you in original along with this office letter no. E.4447, dated 22.8.1951. In this a copy of letter no. D. 2526/51-A2, dated 26.2.1951 referred to therein may also be furnished.

Yours

for Secy. to Govt.

KAS

General and Revenue Secretariat

( )

the 19 .

Date of issue 5.3.52

Signed by.....

List of enclosures.....

Copied by.....

Examined by.....

VD 015460—GPB—30,000—25-9-51

C F.No. 46]

6433/E1
83/52

GOVERNMENT OF MYSORE

No. 892
Encls. with enclosures & a copy of letter

OFFICE OF The Director of Archaeology, Mysore.

Date 6th March 1952.

The Secretary to Government of Mysore,
Local Self-Government Department,
BANGALORE.

Sir,

Subject: Measures for protection of objects of Cultural value against probable consequences of Armed Conflicts.

With reference to your letter No.E.11880 dated 5-3-1952 on the above subject, I am forwarding herewith the enclosures received from the Government of India and sent to this office with your letter No.E.4447 dated 22-8-1951.

A copy of letter No.D.2526/51-A2, dated 26-7-1951 is also enclosed as desired.

Yours faithfully,

(K. ~~Narayana Iyengar~~)
Director of Archaeology I/C.

RKN.

No.D.2526/51-A.2.

Government of India,
Ministry of Education,
New Delhi, 26th July 1951.

From

Mrs. Bina Chatterjee, M.A., D.Phil.,
Under Secretary to the Government of India.

To

The Chief Secretary,
Government of Mysore, BANGALORE.

Sir,

Subject: Protection of Objects of Cultural value against the probable consequences of Armed Conflicts - Measures for

I am directed to forward herewith a copy of letter No.Ch.431 (with enclosures), dated the 9th October 1950, received from the Director General of UNESCO, on the subject mentioned above for your consideration.

You will agree that all objects of cultural value especially those kept in Museums, Libraries and Archives, should be protected against the consequences of armed conflict. You also are aware that during the last War, most of the Museums took independent precautions against the destruction of their exhibits. It is now proposed to consider this question with a view to evolving a general policy in the matter. You are, therefore, requested to inform the Government of India of your views.

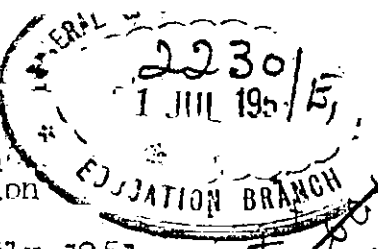
It is, however, understood that the cost of participating in the scheme is to be borne by you/your Administration.

Yours faithfully,

Sd/- Bina Chatterjee

Under Secretary.

"Copy"



No.D.2526/51-A.2
Government of India
Ministry of Education

New Delhi 3, the 27 July, 1951.

From Archy 8-51-3

Mrs.Bina Chatterjee, M.A., D.Phil.,
Under Secretary to the Government of India.

To

The Chief Secretary,
Government of Mysore
BANGALORE.

SUBJECT:- PROTECTION OF OBJECTS OF CULTURAL VALUE AGAINST THE PROBABLE CONSEQUENCES OF ARMED CONFLICTS - MEASURES FOR -

Sir,

I am directed to forward herewith a copy of letter No.Ch/431(with enclosures), dated the 9th October 1950, received from the Director General of UNESCO, on the subject mentioned above for your consideration.

You will agree that all objects of cultural value especially those kept in Museums, Libraries and Archives, should be protected against the consequences of armed conflict. You also are aware that during the last War, most of the Museums took independent precautions against the destruction of their exhibits. It is now proposed to consider this question with a view to evolving a general policy in the matter. You are, therefore, requested to inform the Govt.

P.T.O.

of India of your views.

It is, however, understood that the cost of participating in the scheme is to be borne by you/your Administration.

Yours faithfully,

B. Chatterjee

(Bina Chatterjee)
Under Secretary.

Taneja) 17.7.51.

Copy of the letter No.CL/431, dated the 9th October, 1950, from UNESCO to Mr.P.N.Kirpal, Deputy Secretary to the Govt of India, Ministry of Education, New Delhi.

At its fourth Session, the General Conference of Unesco instructed the Director-General

6.42. "To report to the General Conference on measures suitable for ensuring the co-operation of interested States in the protection, preservation and restoration of antiquities, monuments and historic sites, and on the possibility of establishing an international fund to subsidize such preservation and restoration.

Particular attention will be given to arrangements for the protection of such monuments, as well as to the protection of all objects of cultural value, particularly those kept in museums, libraries and archives, against the probable consequences of armed conflict."

You will find enclosed an explanatory note, with a copy of the report 5C/PRG/6 mentioned in that note.

I should be grateful if your Government would let me have all relevant information before the end of the year on the measures already taken in your country for the protection of objects of cultural value against the consequences of armed conflict.

CL/431
Annex
October 1950

EXPLANATORY NOTE

One of the tasks entrusted to Unesco under its Constitution is to "maintain, increase and diffuse knowledge", in particular, "by assuring the conservation and protection of the world's inheritance of books, works of art and monumenys of history and science, and recommending to the nations concerned the necessary international conventions".

In studying the different aspects of preserving and protecting the world's cultural heritage, it was found necessary, to take into account the problems raised by the possibility of armed conflict. The meeting of experts called together by Unesco in October 1949 drew up a report containing a number of recommendations directed in particular to the establishment of a permanent Unesco Committee for Monuments and Archaeological Excavations (see MUSEUM III, 1950, No.1, pages 92-94). This report also made recommendations for the event of armed conflict.

> "It was agreed to recommend the consultations with Unesco regarding the protection of real and personal property of universal interest against the greatest risks, particularly in time of armed conflict, be considered as a function of the permanent committee possessing the highest degree of importance. Since this problem is also a matter of profound concern to the entire museum world, it was recommended that ICOM be invited to participate fully in all discussions having such protection as their object.
>
> It was recommended that, in accordance with the proposals contained in the document UNESCO/MUS-Conf.1/15, of 13 October 1949, Unesco be asked to:

P.T.O.

(1) recommend the study of this question in countries where it has not yet been properly considered, among other things by making known what steps countries have taken to carry out certain detailed proposals described in the above-mentioned document;

(2) request the United Nations Commission for the Codification of International Law to pay special attention to war crimes committed against cultural treasures, and to introduce provisions for the punishment of such crimes in the proposed international penal code;

(3) invite Member States to make Declarations on the lines of the draft prepared in 1940 by the International Museums Office.

It was further recommended that the Director-General of Unesco, in his Report to the Fifth Session of the General Conference, make mention of any protective measures already adopted by Member States and request the latter to approve the principle of a Declaration based on the 1940 draft. The Netherlands expert being the only one who complied with the request to send a report on this matter, the Dutch Government could be invited to send a more detailed survey describing and explaining its achievements in this field.

Pending the widespread adoption by Member States, of official declarations based upon the draft prepared in 1940 by the International Museums Office, it was unanimously agreed to recommend that the Director-General of Unesco address an appeal to Member States emphasizing, in the strongest terms, the extreme importance of each nation so conducting its affairs as to ensure the protection of the historic and artistic patrimony of mankind, wherever situated, against all hazards, and particularly against those of armed conflict. In this connexion, it was recognized that the protection of towns possessing historic and artistic value of the first order, as well as the protection of groups of monuments, constituted a special problem of peculiar difficulty and importance. It was the view of the Committee that Unesco could play an invaluable role of leadership in asserting the high moral obligation which must guide the conduct of all civilized nations in matters of this kind."

At its Fifth Session, the General Conference examined a report submitted by the Secretariat of Unesco on the various aspects of international co-operation" in the protection, preservation and restoration of antiquities, monuments and historic sites". This report studies in particular the measures to be taken against the dangers resulting from armed conflicts (documents 5C/PRG/6, pages 5 and 6, enclosed). Two annexes were attached to this report: (1) a report on the international protection of cultural property, by penal measures, in the event of armed conflict; (2) a report drawn up by the Netherlands Government, in accordance with the wish expressed by the Experts' Committee, on the measures taken by the Netherlands for the protection of historic monuments and other works of cultural value in wartime.

The document quoted above mentions the publications of the International Museums Office, in particular "La Protection de Monuments et Oeuvres d'art au cours de conflits armes" (special edition of "Mouseion", 47-48, 1939) and Volume II of the "Recueil de Legislation comparee de Droit International"(1940). Part of this documentation was translated and published under the auspices of the United States Government("International Protection of Works of Art

P.T.O.

and Historic Monuments" in "Documents and State Papers",No.3590, June 1949).

In order to enable Unesco's Secretariat to press on with its work, I should be grateful if you would let me have as complete information as possible, in accordance with the recommendations of the Committee of Experts of October 1949, on the measures already adopted in this field by your Government:

(a) Special architectural measures designed to guarantee the protection of certain buildings of particular value and buildings containing collections of cultural importance (museums, archives, libraries, etc.), especially against danger from fire and collapse.

(b) Preventive measures for the protection of movable articles of cultural value either within the building where such articles are ordinarily kept or in the immediate vicinity of such building (stores of packing material, etc.).

(c) Construction of shelters on modern lines designed to protect the most valuable articles against damp, bombing and fire.

(d) Establishment of a civilian organization to carry out in wartime the measures taken or prepared under paragraphs (a) , (b) and (c).

(e) Establishment of a military organization which would co-operate closely in military zones in wartime with the organization mentioned in paragraph (d), and which would be comparable to the special service of the M.F.A. and A. (Monuments, Fine Arts and Archives Branch) instituted during the Second World War by the Allied Command.

(f) Adoption in laws and regulations, and in particular in the regulations and instructions destined for the Armed Forces, of all provisions and recommendations designed to ensure the defence and respect of cultural property.

United Nations Educational Scientific and Cultural Organization

GENERAL CONFERENCE

Fifth Session

Programme and Budget Commission.

Item 8.6.1.5 of the provisional agenda

MEASURES FOR ENSURING THE CO-OPERATION OF INTERESTED STATES IN THE PROTECTION, PRESERVATION AND RESTORATION OF ANTIQUITIES, MONUMENTS AND HISTORIC SITES; AND POSSIBILITY OF ESTABLISHING AN INTERNATIONAL FUND TO SUBSIDIZE SUCH PRESERVATION AND RESTORATION.

1. History

A. At its Third Session, held in Beirut in 1948, the General Conference adopted the following resolution:

> The Director-General is instructed
>
> to consider during 1948, in co-operation with the International Council of Museums, the desirability of setting up, under Unesco's auspices, an International Committee of Experts to co-operate with the States concerned in the preservation of monuments and sites of historical value. (6.42)

At its Fourth Session, held in Paris in 1949, the General Conference amplified its instructions, requesting the Director-General:

> to report to the General Conference on measures suitable for ensuring the co-operation of interested States in the protection, preservation and restoration of antiquities, monuments and historic sites; and on the possibility of establishing an international fund to subsidize such preservation and restoration.
>
> Particular attention will be given to arrangements for the protection of such monuments, as well as to the protection of all objects of cultural value, particularly those kept in museums, libraries and archives, against the probable consequences of armed conflict.(6.42)

In accordance with the above resolutions, the Secretariat investigated these problems, with the co-operation of Professor Pane of the University of Naples, on technical questions, and Professor Berlia of the University of Caen, on legal questions, and in consultation with the International Council of Museums(ICOM).A report on these investigations was submitted in October 1949 to a Committee of Experts presided over by Professor Paulo de Berredo Carneiro, member of the Executive Board and permanent delegate of Brazil, who had presented to the General Conference the above draft resolutions. The following were members of the Committee of Experts: Dr.N.K. Chakravarti(India), Emir Maurice Chehab(Lebanon),M.S.Erixon (Sweden) MM.E. Foundoukidis, General Secretary of the International Commission on Folk Arts and Folklore, Professor Hiong King Lai(China),M.P.Lacau (France, appointed by the Egyptian Government),Mr.Ronald F.Lee (U.S.A)Dr.S.Lorentz (Poland),Dr.E.A.M.Van Hispen tot Sevenaer (Netherlands),Mr.D.H.St.J.O'Neil (United Kingdom),Professor Georges Scelle (France),M.Luis E.Valcarcel (Peru),M.J.Verrier(France),M.Berlia(France),Dr.E.Hainisch(Austria), Mr.E.P.Humphrey(U.S.A.), Mme H.Alberto Torres(Brazil), and M.G..Rivier, delegate of the International Council of Museums.

The Committee's report was communicated to Member States(Document UNESCO/MUS/Conf.1/22). The present report is based on the recommendations of the experts and on the results of consultations with ICOM.

B. The decision of the General Conference is based on one of the clauses of Article I of the Constitution of Unesco, which states that the Organization will"maintain, increase and diffuse knowledge.... by assuring the conservation and protection of the world's inheritance of books, works of art and monuments of history and science, and recommending to the nations concerned the necessary international conventions"(Art.1,para.2(c)).

The idea expressed in this paragraph of the Constitution accords certain principles enunciated by the Assembly of the League of Nations at a meeting held in October 1932, in a resolution adopted on the proposal of the International Committee on Intellectual Co-operation, which stipulated that: the preservation of the artistic and historic heritage of mankind is a matter of interest to all civilized States; and that: since the sentiments aroused by the contemplation of works of art may contribute materially to mutual understanding between the peoples, these works of art must be granted international protection and their spcial mission must be promoted by all possible means.

The League of Nations therefore decided to organize co-operation between States interested in the protection, preservation and restoration of artistic and historical monuments; it established in 1935, within the International Museums Office, an International Commission on Historical Monuments, a technical body consisting of 31 members, each of the member countries being represented by a qualified senior official. This Commission was dispersed after the dissolution of the League of Nations, by which it had been set up.

a. The International Museums Office and the International Commission were extremely active. In 1931 an International Conference on the protection of historical monuments was held in Athens; the results of this Conference were published in 1933 in an important work entitled "The Conservation of Monuments of Artistic and Historical Value", containing an outline of general principles, administration and legislation, care of monuments, restoration materials, deterioration, methods for preservation and international collaboration (organization of archaeological expeditions, part played by education in the preservation of monuments, international documentation).

In 1937 an International Conference on Excavations was held in Cairo; the Final Act of this Conference deals with the principles of internal legislation, international control of excavations, abolition of illegal excavations, administrative organization of services, and international documentation.

b. The International Museums Office prepared a draft International Convention "on the protection of national collections of artistic and historical value", which was published by the Office in Volume I of "Recueil de Legislation comparee". An International Conference was to have been held in 1939 to discuss this question, but was postponed on account of the political situation.

The International Museums Office also prepared a draft international agreement on the protection of monuments and works of art in time of war; the League of Nations had decided to convene an international conference on this subject, and had entrusted the Netherlands Government with the task of consulting the various States on the draft agreement. Consultation commenced in January 1939. But this work was interrupted by the war; the conference was not held and the draft agreement was not adopted.

Finally, the International Museums Office published a large volume of international documentation, both technical and legal, which is indispensable to specialists and national administrations in all countries.

2. Main aspects of international co-operation

The problems now confronting the community of nations as regards the protection, preservation and restoration of monuments of art, history and archaeological sites are the same, fundamentally, as those which faced the League of Nations and the International Museums Office. The terrible experiences of the last war, with the destruction and economic and financial difficulty it brought to so many countries, have, however, made some of these problems even more urgent and more acute. International co-operation, if it is to be effective, must operate in the educational, technical and financial fields, and must be exercised, according to circumstances, either through internal legislation and administration or through international agreements.

a. The only fundamental guarantee for the preservation of monuments is the importance attached by the nations to those monuments. The public and educational authorities should therefore take appropriate action to stimulate and develop interest in these monuments, both in

children and in adults. The recommendations and suggestions of an international organization such as Unesco may be taken as a guide for government action and educational programmes.

B. Legislative and administrative action

Examination of the measures taken in the various countries for protection of monuments reveals considerable gaps, both legislative and administrative, certain States possessing neither adequate legislation nor appropriate administration. Here again it is the duty of the international organization to supply the necessary recommendations and advice.

C. Technical action

(a) International documentation. In order to ensure the success both of the action outlined above and of all other action proposed in this report, it is essential that a body of international documentation should be built up and distributed. Much instructive experimental work has been carried out in public education, internal legislation, administration and methods of preservation, protection and restoration of monuments. An international service should be set up for the exchange of information on this work, the results of which should be systematically collected and disseminated by means of appropriate publications. The work initiated in this sphere by the International Museums Office must be continued in the light of recent experience.

(b) Exchange of persons. First-hand study of experiments made and results obtained has in many cases proved an essential complement to the exchange of information. The States concerned should therefore be encouraged to organize the exchange of administrative and technical personnel responsible for the preservation and restoration of monuments or the supervision of archaeological excavations.

(c) Missions of experts. One of the chief difficulties experienced by certain countries with monuments or sites of great historical value is the shortage, at any rate temporary, of qualified personnel. International missions of experts, composed of archaeologists, architects or specialists on preservation and restoration, as the case may be, should be available for despatch to countries requiring them, which should, for their part, be prepared to implement the recommendations of those experts. Temporary missions of this kind would be one of the most effective forms of international assistance on the technical plane.

(d) International legal action. The aim of the international conferences held in Athens in 1931 and in Cairo in 1937, and of the conferences that the League of Nations had decided to convene just before the war, was not merely to exchange information or study technical questions. These conferences also proposed to examine draft international agreements or draft inter-governmental conventions on problems which could only be solved by the adoption of measures of this kind. These problems included the protection of national collections, the exportation of works of art obtained from archaeological excavations, the abolition of illegal excavations, the organization of excavations on an international footing, the recovery of cultural property and the protection of historical monuments or cultural property in time of war. These draft agreements and conventions, which were being prepared on the eve of the war under the auspices of the League of Nations, must now be examined afresh, and after the necessary adjustments, submitted for approval to the governments concerned.

(e) Financial assistance. The resolutions adopted at the Fourth Session of the General Conference instruct the Director-General to study "the possibility of establishing an international fund to subsidize preservation and restoration work". The value of a fund of this kind is indisputable. Many countries, particularly now, after the war, lack sufficient financial resources either to preserve or to restore their monuments, with the result that buildings of universally recognized beauty and historical interest are threatened with slow deterioration which cannot but result in their total destruction. International financial assistance to countries which are rich in artistic and historical monuments, but economically impoverished, represents an effective method of translating into action the principle of human fellowship proclaimed by the Assembly of the League of Nations

and reaffirmed in the Constitution of Unesco. In the past, there were cases of private funds contributing, in cases of urgent need, to help the authorities of a particular country to restore famous monuments and so save them from destruction. We cannot, however, count on a continuation of this generous assistance; and aid can come only from the more favoured States or from co-operation between all States. Thus the Committee of Experts consulted by the Secretariat strongly recommended that Unesco should investigate the possibility of establishing an international fund.

Though there can be no question about the legitimacy and the value of an international fund the practical difficulties of such a scheme are considerable. It is very doubtful whether Unesco can meet this demand from its own budget. In order to comply with all demands made upon it, an international fund would have to dispose of very considerable sums; otherwise, the problem of allocating limited credits amongst the various applicant States would be too difficult. It would thus be scarcely practicable in present conditions to establish a single fund capable of covering all requirements.

It is, however, possible to adopt a more modest and more practical plan, the effectiveness of which would nevertheless be considerable. In exceptional cases of universally recognized importance from the point of view of international cultural co-operation and understanding, Unesco could, in consultation with the States concerned, collect information, prepare plans of action and bring these documents to the attention of other States, cultural institutions, tourist companies and private groups in a position to co-operate in the execution of the plan. Unesco could also give technical and moral assistance, acting as an international information and co-ordination organization, in somewhat the same way as in the field of educational, scientific and cultural reconstruction.

(f) Precautions against the dangers of armed conflict. The General Conference, at its Fourth Session, decided that "particular attention should be given to arrangements for the protection of monuments as well as for the protection of all objects of cultural value against the possible consequences of armed conflict.". As stated above (Section I.C.), the League of Nations had decided to convene an international conference to study a draft international agreement prepared by the International Museums Office, and had requested the Netherlands Government to consult with interested States on this subject. The documentation on this problem was published by the International Museums Office, in particular: "La Protection de Monuments et Oeuvres d'art au cours de Conflits armes" (1939) and Volume II of "Recueil de Legislation comparee et de droit international" (1940). Part of this documentation was translated and published under the auspices of the United States Government (International Protection of Works of Art and Historic Monuments, in Documents and State Papers, June 1949)

This work, which was interrupted by the war, is quite as important today as it ever was. The experts consulted by the Secretariat have therefore put forward recommendations outlining the measures to be taken. The Government of the Netherlands, which has taken a particularly active interest in this work, has moreover submitted to the Secretariat a report of the measures which it has taken. This document is contained in Annex. II to the present report.

As regards the protection of monuments against the dangers of armed conflict, international co-operation should take the following forms:

(a) a series of recommendations addressed by the international organization oto Member States, urging them in particular:

to guarantee the protection of certain buildings of particular value and buildings containing collections of cultural importance (museums, archives, libraries);

to take preventive measures for the protection of movable articles of cultural value;

to construct shelters on modern lines designed to protect the most valuable articles against bombing and fire;

to establish a civilian, military or semi-military organization to supervise the execution of the above measures in case of need;

to establish a military organization to co-operate with the above organization in military zones;

to include in military regulations provisions against the occupation or utilization by the armed forces of buildings of cultural value and shelters built to accomodate art treasures.

(b) the adoption by the various States of international legal conventions or regulations forbidding the destruction of monuments and objects of cultural value, and giving special guarantees to certain towns or sites containing historic and artistic treasures of exceptional importance.

As regards the drawing up of these regulations and conventions, the Director-General has submitted to the International Law Commission of the United Nations, for information, Professor Berlia's report which constitutes Annex I of the present report.

Organisation of International Co-operation

4. There is no doubt that Unesco, by the very terms of its Constitution, is the international organization best qualified to promote international co-operation in this sphere, and to continue the work initiated before the war under the auspices of the League of Nations. But the question arises whether Unesco can delegate certain technical tasks to a specialized or international organization similar to the International Museums Office of the pre-war period. This question has been examined by the Secretariat in consultation with the International Council of Museums, which has taken over part of the work of the former Museums Office. The discussions between the Secretariat and the International Council of Museums, which have shown that the two organizations are in entire agreement, have led to the following conclusions:

The International Council, which is composed of specialists in museography, does not consider itself competent to supervise the preservation and restoration of historic monuments and sites, both of which activities require special skills, as is evidenced by the fact that every country has a separate staff for each branch of work. It was for this reason also that the International Museums Office, at the request of the League of Nations, set up a separate organization called the International Commission on Historical Monuments, which was composed of senior officials appointed by the States concerned and which constituted an inter-governmental body. This Commission dealt in fact with questions which could only be solved on the governmental level; for, whereas in certain countries the organization and maintenance of museums are assured by private initiative, the work of preservation and restoration of monuments is always government-controlled. Similarly, international conventions or agreements are always concluded by public authorities, and it is they who are responsible for the protection of monuments and articles of cultural value in cases of armed conflict. The programme of international co-operation outlined in the second part of this report can therefore be implemented only by an inter-governmental organization. ICOM may, as in the past, afford technical assistance, but the main responsibility must rest with Unesco. This point was moreover recognized by ICOM at its first General Conference in 1948, when the following resolution was adopted:

The International Council of Museums, considering

(a) the generality and urgency of problems relating to the restoration and utilisation of historic monuments, as a result of damage suffered during the war and of changing economic and social conditions,

(b) the frequency with which debates on questions on the agenda of the first biennial conference of ICOM led to the discussion of questions relating to historic monuments,

(c) the existence within Unesco, of a "Museums Division" whose programme has always included the question of historic monuments,

Recommends Unesco:

(a) to change the name of the "Museums Division" to "Museums and Historic Monuments Division";

(b) to develop in this Division, work connected with historic monuments,

(c) to consider the establishment of an organization exclusively devoted to historic monuments, modelled on ICOM and working in co-operation with ICOM and with the special division of Unesco,

(d) to consider the convocation of an international conference to make preparations for the above-mentioned action.

B. Unesco accepted ICOM's recommendation that the name of the Museums Division should be changed. The establishment of a new international organization of a technical character, on the other hand, was subject to serious objections: although an organization of this type would doubtless have the advantage of greater flexibility, it would be costly and only partially effective, since it would not ensure the collaboration of the States concerned. Moreover, it does not appear to be necessary to set up another international commission as large as that which existed within the International Museums Office. A commission of 31 members (and the number would have to be increased to that of the Member States of Unesco), apart from being both cumbersome and costly, is also superfluous, since Unesco can, through the National Commissions, enlist in each country the permanent collaboration of technical experts and competent public services.

It was for these reasons that the Committee of Experts thought it preferable merely to set up, within Unesco, an international advisory committee composed of a limited number of recognized specialists, appointed by the Director-General with the approval of the Executive Board and after consultation with their respective governments. These experts, fourteen in number, will represent the various branches and techniques of the preservation, protection and restoration of historic monuments and sites and archaeological excavations. In the selection of these experts, account will be taken of geographical representation, with due regard to the monuments and sites located in the various countries, the progress made by these countries in this domain, and their requirements. The term of office of the members of this Committee should be such as to permit experts from other countries to serve on the Committee in their turn. The Committee will meet once a year, but a small Executive Committee may be convened, in case of need, in the intervals between plenary meetings.

It will be the duty of the Advisory Committee to guide the work of Unesco in all matters within its competence: education and propaganda, legislative or administrative measures, exchange of information or exchange of persons, technical matters, possible financial assistance, or international legal action. The Advisory Committee, in all these matters, should be called upon to give advice, to carry out preliminary studies and investigations, and to propose to the Secretariat, the Executive Board and the General Conference appropriate technical measures in each case. The responsible organs of Unesco will thus have constant access to authoritative advice; and international co-operation on the lines of the principles and methods of Unesco, will be facilitated.

Conclusion

For the reasons given above, it is recommended that the General Conference, at its Fifth Session, after studying the present report, approve resolutions D.2, D.21, D.211, D.213, D.214, D.22, and D.23 of the draft basic programme of Unesco; and also resolutions 4.4, 4.41, 4.42, and 4.43 of the draft programme for the year 1951.

5C/PRG/6 Annex I
UNESCO/MUS/Conf.1/20(rev)
PARIS, 8 MARCH 1950.

UNITED NATIONS EDUCATIONAL,
SCIENTIFIC AND CULTURAL ORGANIZATION

MEETING OF EXPERTS ON SITES AND MONUMENTS OF ART AND HISTORY

Unesco House,

17 - 21 October 1950.

Report on the International Protection of Cultural Property, by Penal Measures, in the event of armed conflict.

I. The anxiety to secure the effective protection of works of art and historic documents against the risks entailed by armed conflict goes far back into history. Palmyra in the 3rd century protested against the systematic removal of works of art from subjugated peoples.

The difficulties have always been very great and sometimes have been solved only through the chances of war; for instance, throughout the seventeenth and eighteenth centuries, manuscripts were removed one after another from the Palatine Library in Heidelberg, and it was not until 1815 that some of them were restored to their original home.

Hurists observe, however, that the problem of the protection of works of art, in its present form, did not arise until the great world conflicts of the twentieth century. The geographical scale of these conflicts and, in particular, the technical developments, especially in land and air fighting, which determined the conduct of the operations revived the problem with a new urgency; the organization of any effective protection for works of art must be fairly closely related to military technique and must keep pace with its developments. The lessons of the past are thus no longer applicable today, except for the experience gained in the 1914-1918 war.

We shall, therefore, begin by considering the circumstances in which this problem was encountered in 1918 and 1945.

Secondly, we shall decide how the results which have been achieved may usefully be incorporated in the work of the United Nations International Law Commission.

II. At the end of the 1914-18 war, a large number of what might be called cultural treasures had been destroyed; others had been removed from their original homes.

In many cases, the acts in question fell under definite headings recognized in positive international law; they were often violations of the famous Hague conventions of 1899 and 1907. For instance, many attacks on so-called cultural property were found, on legal examination, to be infringements of Article 56 of the regulations annexed to the fourth Hague Convention, dated 18 October 1907, and laying down that: "The property of municipalities, and that of institutions devoted to religious worship, charity, education, art and science, even when belonging to the State, shall be treated as private property".

"All seizure of, and destruction, or intentional damage done to such institutions, historical monuments, works of art or science is forbidden, and should be made the subject of legal proceedings".

On the morrow of the war, public authorities in the various States found themselves committed to two parallel policies, both designed to safeguard cultural property.

Firstly, it was necessary to punish the attacks which had just been made on the artistic patrimony of the world and, secondly,

it was desirable to arrange for its better protection in the future.

III. The problem thus arose, in the first place, in connexion with international penal law. The Conference preliminary to the peace Threaty of Versailles decided at its meeting on 25 January 1919, to set up a Commission on "Responsibility for War and Guarantees". This Commission gathered together all the available information about illegal attacks on cultural treasures.

Its failure to bring those responsible for the war to trial, however, had repercussions on the whole of its work, and no immediate results were secured.

The most that can be said is that complaints which had not been met by penal measures went to swell the claims for reparations made on the former Central Powers. There is no need to stress, however, that the possibility of civil reparations is of very minor interest when we are concerned with property which is essentially irreplaceable. As a result, although we must not deliberately neglect this matter of civil responsibility, which is still a useful line of approach in cases where restitution is materially possible, the failure to organize an international system of responsibility quickly became evident.

IV. On the question of preventive measures for the protection of cultural property, efforts appeared more successful, and were steadily developed as the dangers of armed conflicts became more apparent.

The failure of the system for the protection of cultural treasures in the course of the 1914-18/was not solely due to the unwillingness of the belligerents on either side to comply with it. In more than one respect, the failure of the procedure was attributable to changes in military methods since the 19th century; it is therefore understandable that revision of the conventions to adapt them to these changes was thought necessary, and that, at the beginning it was believed that this would produce good results.

V. It is essential that regulations concerning the protection of persons and property in time of war should, at least to a large extent, be determined by the state of military technique at the moment, and should be brought into line with successive changes in the latter.

There was a dual system of protection in operation from 1914 to 1948. Firstly, it was governed by the rights granted to an occupying power, which excluded the seizure of cultural property, whether private or public. In the latter case, the rule seemed to afford special protection, since it was an exception to the much more severe general regulations concerning public property. Some difficulties had been encountered in applying this principle, but most of these were solved by the restitution made at the end of the war, and this aspect of the problem was not to arise in the discussions of 1918 and 1919. In any case, it was thought that neither the background nor, consequently, the solution of this problem was affected by changes in military methods.

On the other hand, the rules for the conduct of operations, which also covered the system of protection for cultural treasures, reflected a particular stage reached in military technique. The rules contained in the Conventions of 1899 and 1907 on this question were based on a fundamental distinction between defended and undefended towns, villages, habitations or buildings. Provision had been made for an accessory system of marking buildings.

Cultural property was thus protected only if it constituted an undefended unit or an undefended and easily recognizable point within a defended area.

It is scarcely necessary to emphasize that this system was practicable only so long as it was possible, in the conduct of operations, to distinguish easily between what were currently called forward and rear areas.

This policy of localizing the theatre of operations failed because of the scale of operations in the 1914-18 war and, in particular, because of the long range and radius of activity of some of the weapons used.

VI. From 1919 onwards, attempts were made to take account of this fact in the development of doctrine and, as a result, the rule was, as it were, reversed; the idea of localizing operations was still to underlie the policy, but it was no longer an attemp to localize the theatre of operations but to establish and delimit safe refuges within a whole area that might suffer directly from the conflict. Military operations are no longer localized as they were in the past; instead, the places to be spared in operations are now specified.

The attempt to secure such a provision began, in fact, even before the end of the 1914 war, since in April 1918 the Netherlands Archaeological Society took a step which was to lead to a report drawing attention to the inadequacy of the previous regulations and suggesting possible improvements.

This report did not result in the signing of a convention but it deserves attention none the less. It is very typical of the line that technical experts were to follow on this question for the next twenty years.

Firstly, it applies the reversed policy of localization which has just been mentioned; protection would have covered either a particular building, whose inviolability would have been justified because it was not used for military purposes, or a whole town (Rome, Bruges, Venice) whose neutrality would have been set forth in a preliminary agreement for local demilitarization.

Secondly, the report adopted and greatly expanded the system of The Hague conferences, providing for a very detailed procedure of notification and supervision, which, though it was not to come into operation until war had broken out, was to be set up on normal times and might even operate, in some respects, in peace time.

We shall find these two features in all the work done and plans prepared between 1920 and 1940.

VII. A resolution of the Washington Conference, dated 4 February 1922, brought about the meeting of a Commission of Jurists to specify rules to be followed in the use of air forces in warfare. This Commission did not succeed in securing the signature of an international convention, but its work and discussions reveal concerns identical with those of the Netherlands Archaeological Society; for instance, the delegation of the Italian Government secured acceptance of the possibility of establishing "zones of protection" around monuments of historical value; previous notification of the establishment of such zones was to be given, and arrangements were to be made for international inspection to verify that the specified zone was kept in a state of neutrality.

There were grounds for believing that the problem was about to be satisfactorily solved when the resolution of the League of Nations Assembly was passed, on 10 October 1932, recommending that general educational measures should be taken to increase the respect in which monuments and works of art were held and thus endeavour to ensure the material protection of such property in all circumstances.

On this basis, and supported by various requests from the International Institute of Intellectual Co-operation, the International Museums Office set about securing reconsideration of the question, the interest and - unfortunately - the urgency of which were demonstrated once more by events in Spain in 1936.

The elaboration of an effective system was considered at the meeting held by the Office, in October 1936, to which Professor Charles de Visscher submitted a report. The following year, the International Museums Office convened a Committee of Experts in Paris, which produced a draft international convention "for the Protection of Monuments and Works of Art in Time of War". This draft comprised 13 Articles and had annexed to it "Regulations for the Execution of the Convention", containing 12 articles. These material details indicate how carefully and precisely the system had been prepared, and it was hoped that it would still be possible to apply it.

Nevertheless, this draft convention was in line with all the other work undertaken since 1920, the two essential characteristics of which we have already mentioned. In view of its great technical value, however. it is necessary to analyse its essential points.

The draft recalled the need to prepare for the defence of works of art in peace time (article 1 of the draft Convention); it specified carefully that the signatory powers undertook to introduce into their military regulations and instructions such recommendations as may ensure that historic buildings and works of art are respected" (Article 3).

The essentially original feature of the draft was, however, our opinion, that it provided for a truly international status for refuges

It attempted to specify what should be the geographical situation of refuges - distant from the most likely theatres of military operations and from the main lines of communication and any large industrial centres.

Refuges might take the form either of buildings specially erected for the purpose or of existing historic buildings.

The characteristics of a refuge were, firstly, its immunity from any act of military hostility and, secondly, its neutralization by the prohibiton of its use, directly or indirectly, for military purposes. The two characteristics were mutually interdependent.

refuge did not enjoy this a status unless its existence had already been notified in time of peace and unless it remained open to international inspection during hostilities to ensure that it really was kept neutral. The Regulations, for the execution of the convention mentioned above were principally concerned with arrangements for such inspection.

The whole draft was submitted to the Council and Assembly of the League of Nations at their sessions in September 1938. The Government of the Netherlands, in view of the measures it had previously taken, was commissioned by the League Assembly to consult the various governments on this draft and, if appropriate, to arrange for an international conference to examine the draft in detail and adopt it.

The 1939 - 1945 war broke out while these consultations were still in progress. Faced with this new situation, the International Museums Office attempted to employ a procedure which was appropriate to the circumstances of the time, even though it might have resulted in losing most of the guarantees which the earlier draft would have secured; the Office proposed that States should agree to a declaration of principle containing 10 Articles.

Having made some slight amendments to this text, the Govt. of the Netherlands was on the point of submitting it for signature to various powers when the military developments of May 1940 occurred.

The following is the text, not as originally drafted in May 1940, but as revised and adapted to the new circumstances:

DECLARATION ON THE PROTECTION OF CULTURAL PROPERTY IN THE COURSE OF ARMED CONFLICT.

"The Governments signing the present Declaration

"Convinced that the loss of a work of cultural importance is a spiritual impoverishment, not only for the national possessing it but for the entire international community.

"Recognizing that, through the development of the technique of warfare, monuments of art and history, buildings devoted to the arts and works of cultural value

(artistic, historical, scientific or documentary)are in increasing danger of destruction and that it is the duty of all States to take steps to safeguard them from the risks of destruction in the event of armed conflict,

"Being of opinion that it is necessary to ensure by appropriate regulations full respect for the stipulations of the Hague Conventions of 1907, concerning the protection, during armed conflict, of works of cultural importance and buildings devoted to the arts,

"Without undertaking new obligations under a convention on this subject,

"Declare their willingness to conform with the following rules:

Article 1.

The Governments signing the present Declaration consider that it is the duty of every State to organize the protection f of works of cultural importance, whether movable or immovable, situated within its territory, against the destructive/of fects of possible armed conflict.

Article 2

The signatory Governments agree to take all possible precautions to spare works of cultural importance and buildings devoted to the arts during their military operations. With regard to buildings, situated on their own territory, they will abstain, as far as possible, from using them and their surroundings for purposes likely to expose them to attack.

Article 3.

The signatory Governments undertake to issue to their armies such recommendations and instructions as may ensure the respect of works of cultural importance during military operations and to take such steps as may be necessary rigorously to prevent the looting or damaging of these works in the course of armed conflict.

Article 4.

The signatory Governments undertake to refrain from any act of hostility directed against any refuge that a Government may have organized in its territory to shelter, during hostilities, works of cultural importance that may be threatened by military operations. These refuges must, however,

(a) be situated at a distance from the most likely theatres of military operations, from any probable military objective, from any main line of communication and from any large industrial centre;

(b) not be used, directly or indirectly, for purposes of national defence.

Article 5.

The signatory Governments declare their readiness to consider the conclusion, with any other Government, of special agreements recognizing the special protection, during hostilities, of certain monuments, groups of monuments or built-up areas, the safeguarding of which is of exceptional importance for the international community.

Article 6.

1. A protecting mark may be affixed to the refuges designated in Article 4 and to a limited number of buildings of cultural importance which are not, in any circumstances, to be used directly or indirectly for purposes of national defence, and in whose vicinity there are no installations which might be regarded as military objectives. If the protecting mark is removed in the course of armed conflict, it shall not be reaffixed for the duration of the conflict.

2. The above-mentioned mark shall take the form of a [illegible] triangle inscribed in a white disc. The illumination of the protecting marks at night shall be left to the discretion of the military authorities.

3. The signatory Governments shall take the necessary steps to prevent any abuse of the protecting mark. The mark shall not be affixed without the previous permission of the competent governmental authority, and this permission shall be granted for each individual case.

The fact that only a few buildings of cultural importance are to bear the protecting mark shall not exempt the signatory States from taking every possible precaution to ensure that other works of cultural importance shall be protected.

Article 7.

1. In militarily occupied territory, monuments of art and history, museums, public libraries and archives, as well as other buildings devoted to the arts, shall be brought to the notice of occupying troops, who shall be warned that the preservation of these buildings is the concern of the entire international community.

2. During military occupation, the national staff appointed to preserve and guard refuges, museums, monuments of art and history or other buildings devoted to the arts shall be retained in their employment unless there is any legitimate military reason for their dismissal. They shall, however, be in the same position in relation to the military authorities of occupation as the civil population of the occupied territories.

3. The authorities of the occupying State shall take all the necessary steps for the preservation of any monuments which may be damaged. Such steps shall not, however, amount to more than temporary strengthening.

Article 8.

1. The signatory Governments agree that works of cultural importance shall be immune from reprisals.

2. However, every signatory Government may declare, either on signature of the Declaration or later, that observance of the rules set forth in the foregoing articles shall be subject to reciprocal treatment from the opposing party. Signatory Govts. which have made this reservation declare their readiness, before taking reprisals, to call in a Commission of Enquiry, consisting of nationals of neutral Powers, to verify the actions of which the opposing party is accused and which are alleged to be in breach of the provisions of the present Declaration.

Article 9.

Should one of the signatory Governments consider itself no longer in a position to comply with the foregoing provisions, it shall immediately inform the other signatory Powers.

Article 10.

1. The signatory Governments undertake to assist each other in the execution of the provisions of the present Declaration.

2. Neutral Governments shall lend their good offices to States engaged in armed conflict regarding any measures taken for the protection of works of cultural importance, and for the settlement of any dispute concerning the execution or interpretation of the provisions of the present Declaration.

3. The signatory Governments shall make every effort to prevail on other Governments to sign the present Declaration.

4. The present Declaration, made jointly by the Governments of ..... shall be open for the signature of all other Governments through the Netherlands Government, which will notify all the States concerned of accessions."

VIII. We thus see what was the state of positive international law on the subject at the outbreak of the 1939-1945 war; in essentials, the provisions of the Hague Conventions drafted in 1907 had been maintained; few unilateral Declarations were then made by belligerents, in which they undertook, subject to reciprocal treatment, to preserve monuments of human civilization as far as possible.

Unilateral decisions designed to ensure the protection of the artistic heritage were later taken. One of the most striking instances was the establishment, in 1943, by the Government of the United States of America, of a Commission with the title of "American Commission for the Protection and Salvage of Artistic and Historic Monuments in War Areas" A special force of officers was instituted for this purpose; their work with the armies was backed by two orders issued by General Eisenhower as the Commander-in-Chief of the Allied Forces. The first was dated 29 December 1943 and relates to operations in Italy; the second was dated 26 May 1944 and deals with the operations which were to begin in Europe with the landing on 6 June following. The view they clearly set forth is this: the lives of combatants are the first consideration; if necessary, to safeguard those lives and the success of the military operations, artistic monuments shall be sacrificed; but, whenever it is possible to spare such monuments without compromising the success of the battle of entailing the sacrifice of human lives, they must be so spared.

IX. In fact, if we confined ourselves to this aspect of positive international law, we should give an incomplete idea of the problem of the protection of cultural property.

Admittedly, the most serious risk to which armed conflict exposes such property is that of destruction in the course of operations.

Nevertheless, the occupation of temporarily conquered territories in the course of hostilities disclosed afresh a risk which grew steadily more serious the longer such occupation lasted; cultural treasures or, at least, movable cultural treasures might change hands and owners otherwise than as the result of the normal processes of trade; the transfer might be brought about under compulsion, in which case it was only a more or less veiled form of looting. The property in question was not destroyed; it survived to bear testimony, but it is understandable that jurists have endeavoured to prohibit such transfers as being merely a more highly developed form of pillage.

Those who negotaited the Hague Conventions had themselves tried to secure this result. The Fourth Convention, dated 18 October 1907, contains two prohibitive clauses; that in Article 28, forbidding looting, and that in Article 56, declaring any seizure of works of art and science prohibited and liable to legal proceedings.

X. During the 1939-45 war practical measures were taken. For instance, the terms of reference of the American Commission mentioned above conferred powers in this matter on the Commission. During military operations, the Commission was authorized to draw up, with the assistance of technical experts, a list of cultural treasures which had been appropriated by the invading armies of the Axis, representatives of the Axis Governments, and private individuals belonging to the Axis States. At the time of the Armistice, the Commission was to ensure that the conditions imposed provided for the restitution of public and private property which had been appropriated by the Axis powers; if such restitution was impossible owing to the destruction of the property, the Commission was to draw up a list of cultural treasures belonging to public corporations in the Axis countries or to the private collections of the Axis leaders, which might furnish reparations of equivalent value.

XI. These practical measures to secure restitution were particularly effective because the Allied Powers, in their statement issued in London on 5 January 1943, had laid down principles which, in law if not in fact, went beyond those contained in the Fourth Convention of

1907

Paragraph 3 of the statement indicated, firstly, that the signatory Powers would not recognize the validity of every [illegible] executed by their enemies without legal sanction. Secondly, moreover, an operation with assemblance of legality (carried out, for instance, in the form of a sale) might be regarded as an act of plunder.

The practice of requiring the occupied countries to pay heavy occupation charges in fact made it very easy to give an operation, which had been the result of deliberate pressure, the semblance of a free commercial transaction.

The statement was issued as a warning to nationals of neutral Powers, thus leaving open the possibility of claims for the return of property even when, at the end of the war, such property was in the possession of a third party.

Subsequently, as Germany's satellite States one by one laid down their arms, armistice agreements were made, providing for the restitution of cultural treasures removed.

This follows, for instance, from Article II of the armistice terms with Bulgaria, dated 28 October 19[illegible], Article 11 of the terms with Finland, dated 19 October 1944, and Article 6 of those with Hungary dated 20 January 1946.

The wording of these articles is similar, and involves an undertaking to restore to the various united nations "in good condition and on the dates specified....all property and material removed during the war from the territory of the united nations....such as..... objects of historical interest, museum exhibits.....".

When the peace treaties subsequently concluded confirmed these armistice terms, they ratified these measures for restitution. Furthermore, the peace treaty with Hungary, dated 10 February 1947, provided for the restitution of "original artistic, literary and scientific works produced by Yugoslav or Czechoslovak artists, writers or scientists" in the possession of Hungarian authorities as a consequence of Hungarian rule over those territories prior to 1919 (Article 11 of the treaty).

Similarly, the Allied High Commands' proclamation to the German people, dated 20 September 1945, made provision for similar restitution (Section VI, 19, b).

These are the main principles applied in the attempt to settle the difficulties resulting from the 1939-45 war.

XII. Hardly had the war ended and international relations become a little more normal when consideration of the problem of safeguarding cultural treasures was resumed.

At first sight, in 1946 as in 1919, there appear to be two possible means of legal procedure: action under international criminal law and agreements as a preventive measure.

Whereas, however, after 1919, the possibility of an international penal code had faded even at the Versailles Peace Conference, so that all the endeavours of technical experts were directed to the preparation of an international treaty governing the conduct of belligerents, the situation today appears to be reversed

XIII. The Charter of the Nuremberg tribunal, and the Nuremberg trials introduced some fundamental principles of penal law into positive international law.

The Moscow Declaration made by three of the Allied Powers on 30 October 1943 announced that German nationals guilty of atrocities would later be brought to trial. The London Agreement of 8 August 1945 between the United States of North America, Great Britain, the U.S.S.R. and France provided for the establishment of an international military tribunal for this purpose. This tribunal rendered judgment

on 30 September and 1 October 1946. In this way, the weakness which put an end to the work of the Commission on Responsibility for War at the Versailles Conference in 1919 was avoided.

In the question with which we are concerned, however, the Nuremberg proceedings are not merely of indirect interest because they show the emergence of an international penal code.

They are of direct interest, because they were concerned with offences which may be defined as attacks on cultural property. There was attached to the London Agreement the "Charter of the International Military Tribunal". Article 6 of this Charter defined acts coming within the jurisdiction of the Tribunal. These were grouped under three charges, with the respective titles of "crimes against humanity". Among the action which might constitute "war crimes" the Charter mentioned in particular. "..... plunder of public or private property, wanted destruction of cities, towns or villages, or devastation not justified by military necessity" (Article 6(b) of the Charter).

Admittedly, the wording of Article 6 of the Charter of the Nuremberg Tribunal is chiefly interesting because no active steps in this matter had previously been taken but, by itself, the Article constitutes only a very imperfect and incomplete penal sanction when compared with the manifold means by which attacks may be and have been made on the cultural heritage of the international community.

The action taken by the General Assembly of the United Nations in its Resolution 174(II) opens up very hopeful possibilities of improvement. Under this resolution, an "International Law Commission" was set up " for the purpose of encouraging the progressive development of international law and its codification".

In a resolution of 21 November 1947 (Resolution 177 (II)), the General Assembly directed the Commission to:

"(a) Formulate the principles of international law recognized in the Charter of Nurnberg Tribunal and in the judgment of the Tribunal, and

(b) prepare a draft code of offences against the peace and security of mankind, indicating clearly the place to be accorded to the principles mentioned in sub-paragraph(a) above."

The International Law Commission held its first session in New York in the spring of 1949, and is to meet again in Geneva in the spring of 1950.

The authority commanded by its conclusions in both the scientific and the political fields, and the task committed to the Commission in the resolution of 21 November 1947, give grounds for hope that satisfactory results will be achieved in the matter with which we are concerned, and make it desirable that Unesco should take some action for this purpose.

II

XIV. There are two aspects of the question of protecting cultural treasures in the event of armed conflict:

Firstly, direct and, so to speak, physical protection, by the adoption of appropriate measures.

It is obvious that such measures can be guaranteed only by the adoption of an international convention designed for the purpose.

Secondly, however, consideration should also be given to the question of punishing infringements, and to the measures to be taken against those who have attacked works of art and historical monuments. By intimidation, such measures would be preventive as well as repressive. Being thus concerned with preventive and repressive penal law the question of the protection of cultural treasures in the event

of armed conflict comes within the immediate purview of the International Law Commission. By its resolution of 21 November 1947, the General Assembly of the United Nations entrusted "the formulation of the principles of international law recognized in the Charter of the Nurnberg Tribunal and in the judgment of the Tribunal, to the International Law Commission, the members of which will, in accordance with Resolution 174 (II), be elected at the next session of the General Assembly:" and directed the Commission to:

> "(a) Formulate the principles of international law recognized in the Charter of the Nurnberg Tribunal and in the judgment of the Tribunal, and
>
> (b) prepare a draft code of offences against the peace and security of mankind, indicating clearly the place to be accorded to the principles mentioned in sub-paragraph (a) above.

On the basis of this resolution of the Assembly, the International Law Commission should be asked to provide for the protection of cultural property, and to enforce that protection by penal measures. There is, in fact, no technical legal reason why the protection of the world's artistic heritage should not be included in international law. Moreover, the order of the International Law Commission's work shows that, by this procedure, the chances of speedily securing a solution, to the problem would be increased, for, at its first session in 1949 the Commission concentrated on the task confided to it in the resolution quoted above.

The Commission did not then overlook the fact that the wording of the Assembly's resolution appeared to lay two distinct problems before the Commission, indicated respectively in paragraphs (a) and (b).

Ought Unesco to specify the paragraph on which it relies to justify the Organization's intervention with the Commission?

The report on the work of the Commission's first session, submitted to the General Assembly, shows that it has already considered the more or less close connexion between the matters dealt with in paragraphs (a) and (b).

On this point, the Commission reached the following conclusions, which are set forth in the report: "it noted that .... the task of formulating the Nurnberg Principles appeared to be so closely connected with that of preparing a draft code of offences against the peace and security of mankind that it would be premature for the Commission to give a final formulation to these principles before the work of preparing the draft code was further advanced .....". At a later meeting, according to the same document, the Commission instructed M. Jean Spiropoulos, who is to report to the next session in 1950, to submit "a report on the Nurnberg principles and a working paper on the draft code".

It thus appears that, at the present stage of its work, the Commission has thought it better not to separate the two paragraphs of the resolution. However much we may be tempted to rely on the Commission's wisdom to decide under which of the two paragraphs the protection of works of art should be considered, there is one observation which it is quite essential to submit.

We have seen that the Charter of the Nuremberg Military Tribunal dealt with attacks on cultural property only in a very sketchy and obviously inadequate way. When all is said and done, as we have seen, almost the only reference to violation of the protection due to works of art is the word "plunder". Admittedly, in its work of formulating the Nuremberg principles, the International Law Commission is not obliged to restrict itself to the

letter of the Charter of the Military Tribunal. But it is to be feared that, to the extent that the Commission works on the basis of paragraph (a), it may feel obliged to maintain a greater reserve than in its activities in implementation of paragraph (b).

As a result, if, in the later development of the Commission's work, it were found that the Commission was giving some force to the distinction made by paragraphs (a) and (b) of the Assembly's resolution, it should be agreed that Unesco should recommend the Commission to regard itself as dealing with the matter on the basis of paragraph (b). Only on this condition could the Commission fulfil the various technical requirements now necessary for the protection of works of art.

XV. The first question that arises is to determine as exactly as possible what property is to enjoy international legal protection. Neither doctrine nor the wording of agreements has so far produced a very precise or finally agreed terminology; references are made to works of art, historical monuments, artistic patrimony, etc.

It is desirable that, as far as possible, a legal definition of cultural property or cultural value should be worked out, first to be employed in the work of the International Law Commission and gradually to be accepted as a permanent concept.

We would propose the following definition:

"Cultural property includes, in particular, movable or immovable property, whether public or private, constituting monuments of art or history, or being works of art, historical documents or specimens from collections."

"Buildings principally designed and currently employed to house such works, documents or specimens, are also to be regarded as cultural property."

The adverbial phrase "in particular" indicates that this is a general definition, which does not and could not claim to cover all the various possible cases. With this reservation - which seems to us to be unavoidable - we think that our proposed definition meets most cases likely to arise.

There is no need to emphasize that the fact that a work is movable or immovable, public or private property, cannot be invoked to exclude it from the special protection now being arranged; on this point, our proposed text merely repeats that used in previous conventions, which has never yet given rise to any difficulties.

What is more important is the distinction made between monuments of art or history, works of art, etc. on the one hand, and the buildings containing them, on the other.

The former owe their designation as cultural property to their own inherent quality, but the expression "buildings" is designed to cover property which is only indirectly and, as it were, by reflection, of cultural value.

In the first instance, the phrase "monuments of art or history means that, if the occasion arises, one of these two qualities - artistic or historical interest - is sufficient to merit classification as cultural property.

It should be mentioned that the term "historical document" is principally intended to cover archives. But, in domestic legislation and national practice, the latter term has sometimes acquired a specific sense which might seem too narrowly restrictive. The suggestion expression should therefore be understood in a broader sense than the word "archives"

The reference to "specimens from collections" may, at first

sight, seem redundant. In some cases, it is true, it may be indistinguishable from the previous reference to works of art. But it makes it possible, in addition, to provide for certain cases not covered by the previous terminology, such as collections of scientific interest (natural history, early mechanization, etc.) It was thought impossible to ask for protection, in general terms, for a building used for scientific and cultural purposes. A university, a laboratory, a faculty, a technical training college, are all buildings used for scientific and cultural purposes but have never been covered by the protection granted to cultural property; it is no use to aim too high. It may obviously happen, for instance, that a faculty is housed in an historical monument or that the library of a university contains rare works and historical documents; in this case, both should benefit from the legal definition of cultural property, but they would acquire that designation not as a faculty or a library but as an historical monument or a building devoted to the arts. It is particularly difficult to ask for general protection in this case because, in some instances, the laboratories of science faculties may be directly used in carrying on hostilities.

With regard to the second category of cultural treasures, i.e. buildings, it should be borne in mind that some of these may house treasures only occasionally, being designated as refuges in case of armed conflict. The adverb "currently" is designed to met meet this case.

XVI. When the category of property to enjoy the proposed protection has been specified as precisely as possible, we have to define infringements of the rules and to indicate what acts are to be regarded as such infringements.

In attempting to specify what acts constitute infringements, we have one primary distinction that should not give rise to serious disagreement or require lengthy justification, since it follows from facts which made it necessary in the past and still do so.

A distinction must be made betwee the destruction and the removal of cultural property. Both acts may constitute punishable offences, but in different conditions.

XVII. The possible destruction of cultural property obviously assumes military operations.

In international law, as it existed previously, efforts had been made to solve the problem, as we have seen, either by means of international agreements or, more recently, by military instructions given by one of the belligerents to its troops.

The general idea underlying both systems was that only military necessity, more or less exactly defined, could justify destruction. We have to preserve this concept of military necessity, even if we find it necessary to give it another name.

On another question, however, there will be a break with the old order. We have to extract from the Charter of the United Nations the legal consequences it entails. As we pointed out above war is now no longer, on any pretext and to any extent, a legal means of action open to any State. In other words, if we are prepared to leave aside the material semblance of the facts, the only possibility in the future is that of carrying out police operations and not a war; as a consequence, the equality of belligerents disappears, as the justification for that equality in the past was the international recognition of the legality of warfare.

The preferential status thus enjoyed by the armies carrying out the United Nations' decisions should be borne in mind.

We suggest that it should be stated that:

"Police, troops and other forces carrying out military operations on the orders of the United Nations or one of its organs, or with their consent, shall, in the course of the operations, ensure that cultural property is preserved, except in the case of absolute military necessity.

"The case of military necessity shallnot cover circumstances in which the destruction of cultural property may be contemplated as sanctions or reprisals.

" In no circumstances may forces acting in violation of the procedure specified in the United Nations Charter invoke military necessity or any other reason to justify the destruction of cultural property."

Some comments are necessary upon the wording of these three paragraphs. The enumeration of "police, troops and other forces" is due to the fact that there is no precise recognized terminology for this subject, as it is apparent that soldiers would be inclined to maintain the traditional vocabulary, whereas jurists and statesmen would prefer to introduce new terms. The best means of avoiding the dangers that might arise from this uncertainty of designation is to combine the two sets of terms . In the same paragraph, reference is made to the "orders" or "consent" of the United Nations. It is necessary to avoid excluding the possibility that, for procedural reasons or, more accurately, in the interests of speed and efficiency in procedure, the United Nations might allow action to continue which, while not undertaken in precise accordance with the terms of the Charter, was designed directly to achieve its purposes. This is, in essence the case that arose in the conflict between Italy and Ethiopia; in common parlance, sanctions were taken by the League of Nations; this was politically and morally correct, but legally in-accurate, since it could be claimed that the sanctions originated with a so-called Co-ordinating Committee. These are minor quibbles against which precautions must be taken. Lastly, the first paragraph refers to "military necessity", without giving any fuller definition than previous texts, since it may well be considered impossible to do so.

The second paragraph of the proposed text is designed to prohibit reprisals against cultural property, but the term itself has been used only in association with the word "sanctions". Some thinkers might maintain that the expression "reprisals" is bound up with the old conception of the right of war, and it was important to provide against this danger.

The third paragraph follows from what we said above about the effect of the peaceful procedure for solving disputes provided for in the Charter; it demonstrates that we may try to take advantage of the innovations introduced by the Charter to improve the protection of works of art.

XVIII. The second type of infringement, whose features we must now attempt to define, is the removal of cultural property.

In current speech, we should be inclined to talk of plunder, but here it is necessary to repeat still more forcefully what we said about the word reprisals; the term "plunder" has recurred constantly in destrinal works and some international conferences for several centuries; it has also been largely associated with methods of warfare which are today, to a great extent, outmoded. To adopt it and attempt to adapt it to current practice would merely increase the difficulties, and it seems preferable to give a more direct definition of the types of cases in mind.

"Any seizure or requisitioning of cultural property by a foreign Authority, or at its direct or indirect instigation, shall be and remain prohibited, whatever may be its purpose.

"Any seizure or requisitioning shall be presumed to be of foreign instigation if, even though apparently carried out by the local authorities, it was not executed under the technical supervision of the staff authorized to protect cultural property".

The use of the two words "seizure" and "requisitioning" is justified by the fact that seizure covers overt illegality whereas requisitioning covers cases in which a preliminary, pseudo-legal process has been carried out in an attempt to provide a semblance of legal title.

The expression "whatever may be its purpose" affords protection because it is so general; thus, a second time, reprisals against cultural property are excluded.

The term "foreign authority" takes account of the case which has been fairly frequently encountered in the past, in which the measure in question originates with some subordinate authority.

The second paragraph is designed to cover cases that recent past events have shown to be possible and dangerous, in which systematic pressure is applied, for instance by an occupying authority, to compel the public authorities of the occupied country, at least apparently, to undertake responsibility for the operation. This is a machination which it is impossible to prohibit effectively by written provisions. It is at least possible to intervene with some effect, acting on the presumption set forth in the text. It must not be more than a presumption; that is to say, the foreign authorities will have the chance of producing proof to the contrary. It would be going too far, in our opinion, to lay down a rule that, in the absence of the technical staff, the operation is necessarily illegal, with no possibility of adducing proof of the contray; this would mean excluding all the unforeseen, unforseeable, and sometimes improbable situations which may arise in the course of armed conflict.

Lastly, account must be taken of two more cases in which cultural property may be removed: cases in which the property changes hands by the normal, open processes of trade; and cases in which the property is moved solely to secure its better protection.

With regard to dealings in cultural property, we think it possible to suggest the following text:

"Although dealings in cultural property may be permissible in the course of an armed conflict, however the latter may be legally designated, it is for the person in whose possession the property is finally found, of whatever nationality, to establish the commercial legitimacy of the operations. This obligation to provide proof shall come to an end after a period of five five years from the date of the cessation of hostilities.

"Neither the existence of a bill of sale, nor the production of an attestation from the former holder, nor the fact of payment, shall constitute a necessarily satisfactory presumption of the legality of the transfer.

"When the legality of a transfer is not established, the property may be effectively reclaimed from the person in whose possession it is finally found, to whom no compensation shall be due."

This text would make dealings in cultural property subject to a general presumption of illegality for the whole duration of the armed conflict; the presumption would be general, since it would also operate against nationals of States not involved in the conflict. However, the presumption is not so large as it appears, and the text confines itself to excluding so-called "camouflage" operations, which afford too easy an opportunity, owing to the payment of heavy occupation charges, of disguising as sales transactions which are not so in fact.

In both the 1914-18 and 1939-45 wars, the trade of States not involved in the operations also suffered from heavy restrictions, just as paralysing to the economic life of the country in question.

With regard to the removal or movement of cultural property for security reasons, the following text appears to provide the necessary safeguards:

"The movement of cultural property, in the course of armed conflict, for the purpose of securing its more effective protection is permissible.

"Property shall be presumed to be moved for this purpose when the movement has the consent of the competent authorities, is notified to Unesco, and is carried out under the direction and technical supervision of the authorized staff, who are entitled to exercise supervision over the property moved in its new refuge."

The publicity entailed by notification of the movement to Unesco would make it more difficult to convert the operation subsequently into pillage pure and simple. The presence of the technical staff of the country of origin would make it possible to keep a check on the property in the course of possible further moves.

XIX. The application of the foregoing articles may, finally, be strengthened by freeing the designation of cultural property, to a very large extent, from all possibility of dispute.

In this connexion, we propose the following text:

"In particular, any property appearing one one of the national lists sent to Unesco by each State shall be designated cultural property for the purposes of the application of the preceding articles.

"Unesco shall determine by what procedure and within what period protests may be made against the inclusion of such property."

This text means that inclusion, without objection, on the Unesco lists contitutes a sufficient criterion for designation as cultural property; it does not constitute a necessary condition.

"The staff responsible for the protection of cultural property situated in the State of which the are nationals shall enjoy, at their head-quarters and in the course of any movements in which they may follow such property, the guarantees traditionally recognized for the staff of medical services. They shall be subject to the same obligations."

The value of this text, owing to the possibilities of improved technical protection of works of art which it opens up, is obvious.

It does not seem to us that it runs directly counter to the fact that, under the terms of the Charter, one of the parties will necessarily be acting in violation of the undertakings laid down in that document: the obligations of the staff in question prohibit them from taking part in the g fight. The staff either violate those obligations and are no longer entitled to protection, or observe them, in which case it may be said that, whatever the attitude of their Government may be, they themselves are not infringing international law.

XX. Subject to the foregoing observations, therefore, we propose the various articles which we have just attempted to justify in the form of the following text:

"Cultural property includes, in particular, movable or immovable property, whether public or private, constituting monuments of art or history, or being works of art; historical documents or, specimens from collections."

" Buildings principally designed and currently employed to house such works, documents or specimens, are also to be regarded as cultural property".

"Police, troops and other forces carrying out military operations on the orders of the United Nations or one of its organs, or with their consent, shall, in the course of the operations, ensure that cultural property is preserved, except in the case of absolute military necessity.

"The case of military necessity shall not cover circumstances in which the destruction of cultural property may be contemplated as sanctions or reprisals.

"In no circumstances may forces acting in violation of the procedure specified in the United Nations Charter invoke military necessity or any other reason to justify the destruction of cultural property.

"Any seizure or requisitioning of cultural property by a foreign authority, or at its direct or indirect instigation, shall be and remain prohibited, whatever may be its purpose.

"Any seizure or requisitioning shall be presumed to be of foreign instigation if, even though apparently carried out by the local authorities, it was not executed under the technical supervision of the staff authorized to protect cultural property".

"Although dealings in cultural property may be permissible in the course of an armed conflict, however the latter may be legally designated, it is for the person in whose possession the property is finally found, of whatever nationality, to establish the commercial legitimacy of the operations. This obligation to provide proof shall come to an end after a period of five years from the date of the cessation of hostilities.

"Neither the existence of a bill of sale, nor the production of an attestation from the previous holder, nor the fact of payment, shall constitute a necessarily satisfactory presumption of the legality of the transfer.

"When the legality of a transfer is not established, the property may be effectively reclaimed from the person in whose possession it is finally found, to whom no compensation shall be due".

"No movement of cultural property, in the course of armed conflict, for the purpose of securing its more effective protection is permissible.

"Property shall be presumed to be moved for this purpose when the movements has the consent of the competent authorities, is notified to Unesco, and is carried out under the direction and technical supervision of the authorized staff, who are entitled to exercise supervision over the property moved in its new refuge".

"In particular, any property appearing on one of the special lists sent to Unesco by each State shall be designated cultural property for the purposes of a the application of the preceding articles.

"Unesco shall determine by what procedure and within what period protests may be made against the inclusion of such property".

"The Staff responsible for the protection of cultural property situated in the State of which they are nationals shall enjoy, for their headquarters and in the course of any movements in which they may follow such property, the guarantees traditionally recognized for the staff of medical services. They shall be subject to the same obligations."

XXI. Even a rapid comparison of this text with the draft convention of 1938 shows how much more detailed the latter was with regard to the organization of protection for cultural property than the wording we propose. This is the necessary consequence of the difference in legal method between the two proposed systems.

It is, however, useful to specify now that the system of agreements is not finally excluded from consideration. It can and should be employed, not, in the present state of affairs, in the form of a broad multilateral treaty entered into by some forty or so powers but in that of a special treaty binding a few States linked

together by strong ties of mutual trust.

In particular, it is only by this means that the rules can be specified for applying general principles, which, at the present day, can alone be codified.

The concept of the refuge, and the expansion of this concept into the idea of protecting towns with an artistic value, should be dealt with in separate treaties. The same applies to the movement inaugurated in June 1938, at the Seventh International Congress on Military Medicine and Pharmacy, held in Madrid, at which the Italian delegation raised the possibility of combining "hospital towns" and "towns of artistic value".

This effort to secure the conclusion of conventions should not really proceed independently of the proposed attemp to work out an international penal code. In our opinion, one of Unesco's tasks should be to ensure that the two movements are linked together and that the second develops out of the first.

Rising above the various methods of legal action and the various possible political situations, Unesco seems equipped to maintain uniformity and cohesion between the manifold attempts to secure the single purpose of protecting cultural property.

Georges Berlia

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PROTECTION OF HISTORIC MONUMENTS AND CIVIL OBJECTS OF CULTURAL VALUE IN WARTIME IN THE NETHERLANDS.

Report by the Director of the State Bureau for the Protection of Monuments, The Hague.

I

At the meeting of experts on sites and monuments of art and history held at Unesco House, Paris, in October 1949, a short memorandum was laid on the table regarding the protection of monuments of artistic and historical value in the Netherlands. A wish for a more detailed report having been expressed, further particulars are now given.

The protection of historic monuments and works of art and culture in the Netherlands is being organized by the Minister of Education, Arts and Sciences. In 1946 an advisory "Commission for the protection of monuments against dangers of war" was constituted. This Commission collaborates with a special section of the State Service for the protection of Monuments, whose task it is to prepare the necessary measures and to execute them after they have been approved.

CIVIL ORGANIZATION.

During the last war the "Inspector for Art Protection in Wartime", Dr.J.Kalf, had formed an organization consisting of a very small professional staff (a technical and a financial expert) at The Hague to assist him and honorary collaborators in the principal places where historic monuments are situated. As long as contact with these local assistants could be made by letter and telephone the centralized direction worked very satisfactorily but when actual fighting took place - in May 1940 and from September 1944 onwards - these means of communication fell out and it became increasingly difficult to give directions from The Hague. The local collaborators carried on as best they could but it is clear that this system can be improved upon.

These voluntary helpers had nothing to do with the protection of movable objects of art and culture, for which the Directors of the Museums, Archives and Libraries were responsible. Private collections remained at first outside the scope of Dr.Kalf's activities but they were included gradually.

The following conclusions were drawn from the above experience:

(1) a greater amount of decentralization will be necessary;
(2) the protection of immovable monuments and the protection of works of art and culture (movable monuments) should be kept separate as long as there is communication with the centre in The Hague;
(3) the protection of private collections should be under the same supervision o as the protection of movable monuments in public institutions;
(4) the means of communication should be made as secure as possible.

The organization for Art Protection has been built up in accordance with these principles. Fundamental are three decisions of the Minister, dated 29 June, 1949. The central direction remains at The Hague, with the State Service for the Protection of Monuments, assisted by the State Inspector for movable monuments. They are assisted by Provincial Inspectors for Art Protection in the capitals of the provinces and an Inspector for Amsterdam on the one hand and the Chiefs of the 34 Districts in which the country has been devided (up to 6 per province) on the other hand.

The task of the Provincial Inspectors consists in time of peace in giving advice regarding the protection of movable monuments and in wartime they will assist in protecting these works of art and culture. As the Provincial Inspectors are, with one exception, the Directors of the principal museum or archives in their province (the Inspector for Amsterdam is the Head Director of the Rijksmuseum) they are well acquainted with the smaller institutions and the private collections in their province.

They will further form the connecting link between the civil and military authorities in their province and the Chiefs of Districts for Art Protection. These are as a rule private architects who work in an honorary capacity. Their task consists in peace time in giving advice regarding the protection of immovable monuments and in time of war in putting approved plans into execution. As far as possible they will also assist the Provincial Inspectors in their work.

Normally there is no hierarchical relation between the Provincial Inspectors and the Chiefs of Districts, although the former are kept informed of the activities of the Chiefs in their province. But if during wartime the means of communication should be severed the District Chiefs will come under the direction of the Provincial Inspectors and if even this will no longer be possible they will continue on their own initiative, also taking care of movable monuments.

MILITARY ORGANIZATION.

As the military authorities will in time of war have means of communication at their disposal which will not be available to civilians, the Advisory Commission for Art Protection i wartime has made the suggestion that a military organization should be created such as the Monuments, Fine Arts and Archives Officers of the Allied Forces in the last war. These Officers for Art Protection will always be able to keep in close contact with the civil organization and would thus enable them to perform their task in time of war in an efficient way.

This consideration was not the only one wh it seems desirable to form a military organization. For near the fighting line or battlefields the civil organization will be paralysed and the Officers for Art Protection will then have to take their place. Their task is well expressed in Article 3 of the draft declaration of the International Museums Office concerning the protection of historic buildings and works of art in time of war, 1939: "to ensure the respect of historic monuments and works of art during military operations and to take such steps as may be necessary rigorously to prevent the looting or damaging of historic buildings and works of art in time of war". They have to work in close collaboration with eventual colleagues in allied forces.

The War Office in the Netherlands had agreed in principle to appoint for this purpose an officer of high rank (with a deputy officer) to be attached to the General Staff and one or more officers of lesser rank to be attached to the Staffs of each military region. These officers will also have to prepare the inclusion i military regulations and instructions of elaborate provisions concerning the respect due to monuments. In general they will be the contactpoints and advocates of the experts on monuments near the military headquarters.

PROTECTIVE MEASURES FOR IMMOVABLE MONUMENTS.

Protective measures for immovable historic monuments and buildings containing collections in the cultural field have to be planned and executed in time of peace. Both then and in wartime the greatest threat to their existence consists in fire. A direct hit by a bomb or shell may destroy a building but as a rule the greatest damage is caused by outbreaks of fires. This is certainly the case in time of peace.

When a fire astarts it is essential that it shall be discovered as soon as possible and that the fire extinguishing material (generally water) can be pured on the flames before they got a firm hold on the building. Owing to the construction of old monuments it is however nearly always impossible to reach the flames when no special measures have been taken previously. The roof prevents an attack from above and narrow and tortuous

passages in the building make it impossible or too dangerous to start from underneath. For this reason sprinkler installations have been laid on in some 40 monuments in the Netherlands and more are gradually being added to that number. Such installations consist of a main water-pipeline with smaller tubes branching off under the roof and near other dangerous places. In these tubes sprinklers have been inserted which consist of a spraying apparatus hermetically covered by a material melting at a given temperature (70°C.). The whole system is kept filled with compressed air. Should a fire start the covering material of the sprinklers will melt, the compressed air will escape and in doing so it will start a fire alarm. The fire brigade will therefore be on the spot very soon after the fire has begun and water will be pumped in the main pipeline. This water will reach the fire through the sprinklers which have been opened by the heat of the flames. In this way the fire may be extinguished before it has got out of hand and the damage caused by water will have been reduced to a minimum. Although they are not cheap, the cost of such installations is not prohibitive. An installation for the Cathedral at 's-Hertogenbosch (Bois le Duc) has been projected which will cost about f.50,000. As the Cathedral has an estimated value of som f.12,000,000 this insurance premium of less than ½%, which need only be paid once, does not seem excessive.

In time of war the fire brigade may be so busy extinguishing fires where lives of men, women and children are in danger that it will not be able to use its limited material for saving a historic building, and often the normal waterworks will be damaged. For these reasons, motor pumps drawing their own water supply from wells in the neighbourhood have been installed in the most important historic monuments in connexion with the sprinkler installations.

During the last war volunteers were engaged who guarded these monuments under the supervision of Dr.Kalf's local collaborators, (in some cases they were paid by the Air Raid Precaution authorities) but it became increasingly difficult to retain them. This system has therefore been dropped and preliminary steps have been taken in order that when the civil defence of the Netherlands is organized, special sections of the fire brigade will be formed whose exclusive task will be the protection of monuments, inter alia by starting the motor pumps in case of fire.

Other protective measures such as fire-resisting walls, reinforced concrete floors and fireproof doors were and are being provided in peace time as they will be most useful in case of war too.

PROTECTIVE MEASURES FOR MOVABLE MONUMENTS.

Most movable monuments are concentrated in museums, archives and libraries but those in private collections are als of great importance.

A scheme for the transport of a selected group of movable monuments to bomb-proof shelters is under consideration in the Netherlands. For this reason a distinction will have to be made between very important movable monuments which will all be transported, important movable monuments and less important ones. These categories will wherever possible bemarked respectively red, white and (optionally) blue.

As not all the important movable monuments can be stored in the bomb-proof shelters, a selection will have to be made. Those remaining in the museums, archives and libraries and the less important movable monuments will be stores in the least dangerous parts of these buildings which to a certain extent have already been strengthened during the last war and will if necessary against be protected against bomb splinters as far as possible.

Special packing material will be made available and an evacuation scheme will be drawn up for the more important collections. Private collections will be attended to by the Provincial Inspectors.

BOMB-PROOF SHELTERS.

Air-conditioned bomb-proof shelters for storing the most important cultural objects have been built in the Netherlands at Heemskerk and Zandvoort covered by dunes and near Maastricht inside the St.Pi[illegible]berg. The largest one at Passlo has been erected above grou[illegible]. Two smaller ones at The Hague and at Otterlo have been reserved for the collections of the Maruitshuis and the Kröller Muller State Museum. Bunkers built by the Germans will perhaps also be used.

The transport of the works of art and culture will have to be organized beforehand as the available time will in any case be limited. The decision to start evaluating should not be deferred to the very last moment. The transportations should be accompanied by a person of recognised status, by preference a military one as the may have to be effected after martial law has been proclained.

SEPULCHRAL MONUMENTS, EPITAPHS AND TOMBSTONES.

The most important ones were protected in the Netherlands during the last war or removed altogether like the figures of the tomb of William I at Delft. Plans will be drawn up to do so again if necessary. The execution of such plans will be supervised by the District Chiefs for Art Protection.

STAINED GLASS WINDOWS.

A selection has already been made of stained glass window which will be removed in the same way as was done during the last war. Even if organized beforehand, this will take some days and in the case of the Gouda glass many weeks. They will have to be transported to the bomb-proof shelters.

MILITARY PRECAUTIONARY MEASURES.

With a view to the restriction of military measures such as billeting, observing and signalling, a distinction seems advisable between irreplaceable monuments, very important monuments and important monuments. Buildings containing collections in the cultural field shall be deemed to be equal in value to either of these categories.

It is intended that the irreplaceable and very important monuments shall be exempted from billeting. Perhaps a further restriction in the case of the irreplaceable monuments can be agreed upon by the military authorities.

Bomb-proof shelters and bunkers used for storing cultural objects should never be used for military measures.

The military regulations and instructions regarding the above matter should be similar for all armies.

The Hague, 2 February 1950.

Tan) 20.7.51

GOVERNMENT OF MYSORE.

General and Revenue Secretariat,

No. ES 13 Bangalore, Dated 12.4.1952

From

The Secretary to Government,
L.S.G. Department.

To

The Secretary to Government of India,
Ministry of Education,
NEW DELHI.

Sir,

Sub:-Measures for protection of objects of cultural value against probable consequences of Armed Conflicts.

With reference to correspondence ending with your letter No.D.2526/51-A.2, dated 11-12-1951 on the above subject, I am directed to state that under the Ancient and Historical Monuments and Remains (Declaration of National Importance) Act of 1951, almost all the Ancient and Historical Monuments and Sites of importance in the State have been taken over by the Centre and hence the question of providing them adequate protection against probable armed conflicts rests with the Government of India.

Further, I am to state that most of the Ancient and Historical monuments and sites of National Importance in the State are situated in the interior parts and are not easily liable for damages in the event of armed conflicts.

So far as objects of cultural value, especially those in Museums, Libraries and archives are concerned, a list of irreparable works of art like paintings, rare manuscripts, books,etc., has to be got prepared under the supervision of an Expert Committee and all such objects should be removed for safe deposit to the interior in selected and suitable places for away from important cities in the event of armed conflict.

Further A.R.P. measures as under-taken during the last war may perhaps have to be provided for the protection of such of the noteworthy Ancient Monuments of the State, as are situated in

p.t.o.

localities likely to be involved in armed conflict.

Yours faithfully,

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L.S.G. Secretary to Government.

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8-51-4.

Archy 2-4-8-4

NO E.513/8.17.4.52

To

The Secretary to Government of India,
Ministry of Education,
NEW DELHI.

SUBJECT:- Measures for protection of objects of cultural value against probable consequences of Armed Conflicts.

Sir,

With reference to correspondence ending with your letter No.D.2526/51-A.2, dated 11-12-1951 on the above subject I am directed ~~and~~ to state that ~~ikex~~ under the Ancient and Historical Monuments and Remains - (Declaration of National Importance) Act of 1951, almost all the Ancient and Historical Monuments and Sites of importance in the State have been taken over by the Centre and hence ~~ikxix~~ the question of providing them adequate protection against probable armed conflicts rests with the Government of India. ~~itself~~. Further, I am to state that most of the Ancient and Historical ~~in~~ monuments and sites of National Importance in the State are situated in ~~in~~ interior parts and are not easily liable for damages in the event of armed conflicts. So far as objects of cultural value, especially those in Museums, Libraries and archives are concerned, a list of ~~In this connection I am to add that a list of~~ irrepairable works of art like paintings, rare manuscripts, books etc., has to ~~should~~ be got prepared under the supervision of an Expert Committee and all such ~~that such materials~~ objects should be removed for safe deposit ~~in~~ to the interior in selected and suitable places for away from important cities in the event of armed conflict.

Further A.R.P. measures as under-taken ~~xxxxx~~ during the last war may perhaps have to be provided for the portection of ~~some~~ such of the noteworthy Ancient Monuments of the State, which are situated in localities likely to be involved in armed conflict.

Yours faithfully,

DRAFT) K.B. 8/4.

for S. G. Secretary to Govt.

D.4
8.4.42